

REMARKS/ARGUMENTS

In response to the Final Office Action mailed July 30, 2009, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks. In this amendment, Claim 1 is proposed to be amended, claims 6-12 are proposed to be cancelled without prejudice, claims 13 and 14 were previously cancelled without prejudice and no new claims have been added so that Claims 1-5 currently pending. No new matter has been introduced.

Claims 1-12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of copending application no. 10/431,059. Claims 1-12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of copending application no. 11/149,466. Claims 1-12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of copending application no. 11/244,903.

Applicants understand that these rejections are to alert Applicants that an actual rejection on the same ground may be issued if one of the applications ultimately issues. However, in light of the potential amendments to the claims of the present invention and any potential amendments made to the claims of the cited applications, Applicants shall defer any arguments and/or actions until the applications actually issue.

Claims 1-12 were rejected as being unpatentable over WO 01/87372A1 to Kopia et al (Kopia) in view of U.S. Patent Publication No. 2022/0188277 to Roorda et al (Roorda) and further in view of U.S. Patent No. 4,743,327 to DeHaan et al. (DeHaan). This rejection is respectfully traversed.

In order to make a finding of obviousness, an Examiner must (1) determine the scope and content of the prior art, including non-analogous art if it is in the field of endeavor reasonably related to the particular problem to which the claimed invention is directed, (2) ascertain the differences between the claimed invention and the prior art, considering both the prior art and claimed invention as a whole, and (3) resolve the level of ordinary skill in the art at the time of the invention, factoring in the creativity that one of ordinary skill in the art would employ as well as the Examiner's own knowledge and technical expertise.

It is respectfully submitted that the references taken as a whole fail to disclose or suggest all of the claimed limitations.

Kopia discloses a device and method for the treatment of restenosis utilizing two drugs for release from a stent. One drug is rapamycin and the other possible choices include dexamethasone, growth factors, cytokine signal transduction inhibitors, anti-proliferative drugs as well as other agents. Kopia discloses a polymeric material for affixing the drugs. More specifically, Kopia discloses a combination of an anti-proliferative and an anti-inflammatory. The typical example of the combination is dexamethasone and sirolimus.

Roorda discloses medicated stents for the treatment of vascular disease. More specifically, Roorda discloses bioactive agents for treating restenosis. Roorda discloses the use of polymeric agents for affixing the agents to the delivery device. Essentially, Roorda discloses a laundry list of different classes of drugs in anti-restenotic actions.

DeHaan discloses the use of fluoropolymers.

None of the references, whether taken alone or in combination, disclose or even suggest the subject matter of independent claim 1. Specifically, none of the references disclose or suggest two different polymers such as claimed in amended claim 1. No weight ratios are given for the fluoropolymer, no use of the two different polymer

systems in combination with both drugs is even hinted at. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant would be willing to interview the present case if the Examiner so desires.

A favorable Action on the merits is earnestly solicited.

Respectfully submitted,

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